

# RETIREMENT BENEFIT PAYMENTS AND HEALTH INSURANCE SUBSIDY PAYMENTS

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This Division of Retirement Employer Handbook is intended for the employers of members of the FRS Pension Plan or the FRS Investment Plan. However, references to an FRS member in this Handbook will refer to a member of the FRS Pension Plan, unless stated otherwise. The division is responsible for processing contributions and maintaining service credit records for Investment Plan members, and for administering Investment Plan participants' disability benefits, in-line-of-duty survivor benefits, and Health Insurance Subsidy benefits. Procedures in this handbook should be well marked to indicate the difference in actions required of the employer with respect to Pension Plan vs. Investment Plan members.

In addition to paying retirement benefits to retirees and survivors, the Retired Payroll Section of the Bureau of Benefit Payments is responsible for the FRS retired payroll, including, deducting insurance premiums from pre-approved providers, deducting federal withholding tax, updating address and name changes, processing IRS levies, deducting Qualified Domestic Relations Orders and Income Deduction Orders, providing income tax information on IRS Form 1099-R for Pension Plan benefit recipients<sup>1</sup>, providing retiree income verifications, and determining eligibility for the Retiree Health Insurance Subsidy Program (HIS) for Pension Plan retirees.

Benefit recipients may access their secure FRS Online account for most information referenced in this chapter. FRS Online can be accessed from the division's website at [frs.fl.gov](https://frs.fl.gov). To access personal information through FRS Online, the user must log in by providing a username and password. If the user is having problems logging in to their account, contact the Division of Retirement toll-free at 844-377-1888 or 850-907-6500.

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<sup>1</sup> FRS Investment Plan Health Insurance Subsidy recipients will also receive an IRS Form 1099-R.

## **I. PAYMENT OF PENSION PLAN RETIREMENT BENEFITS**

### **Payment of Benefits by Direct Deposit**

Since July 1, 2000, Florida law<sup>2</sup> has required all new retirement benefits and Health Insurance Subsidy (HIS) benefits to be paid by direct deposit.<sup>3</sup> Retirement benefits are paid at the end of every month, and are required to be paid by direct deposit.<sup>4</sup>

### **When to Enroll in Direct Deposit**

Members should enroll in direct deposit from their FRS Online account after:

- The member's service retirement application without DROP participation (excludes disability retirement) is acknowledged by the Division of Retirement.
- The member's DROP Termination Packet is generated, generally three months before the member's termination date.
- The member's name has been added to the retired payroll as a disability retiree.
- The surviving beneficiary's name has been added to the retired payroll as a survivor benefit retirement.

The direct deposit form is no longer available from the Division of Retirement's website and will no longer be included with division applications, forms, or correspondence. Please discontinue providing the direct deposit form as you assist members with transitioning to retirement. Instead, please remind them to log in to their FRS Online account. Members who need assistance accessing their FRS Online account or using the direct deposit feature of their account should call the Division of Retirement toll-free at 844-377-1888 or 850-907-6500 for assistance.

**NOTE:** If a State of Florida employee sets up their direct deposit through People First to receive state wages before retirement, no direct deposit enrollment is needed. Their FRS benefit will be deposited to the same account. It is recommended that members log in to their FRS Online account to review their current direct deposit information.

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<sup>2</sup> See Section 2 of Chapter 99-155, Laws of Florida, which amended section 17.076, Florida Statutes, to create this requirement.

<sup>3</sup> Retirement benefits may be paid by state warrant when administratively necessary or in the case of hardship exemption. (Hardship exemptions are determined by the Department of Financial Services.)

<sup>4</sup> The Chief Financial Officer of the State of Florida has established a program providing for the direct deposit to financial institutions of salary and retirement payments made from state funds. The financial institution must be equipped for electronic funds transfer (EFT) or other means of direct deposit.

### How to Enroll in Direct Deposit

Members enrolling just before their names are added to the retired payroll or retirees currently receiving benefits by mail may enroll in direct deposit online<sup>5</sup>. This is done through their secure FRS Online account at [frs.fl.gov](https://frs.fl.gov) and clicking on the “Direct Deposit Authorization” link to complete the direct deposit enrollment request. The online authorization will be completed within eight to 10 business days after the request is submitted. FRS deposits to the specified bank account will begin with the first payment after the direct deposit authorization is completed.

### Changing or Cancelling Direct Deposit

Future direct deposit changes or cancellations to a benefit recipient’s direct deposit after it is set up must also be made using FRS Online. Any monthly benefit due during the processing period will be mailed to the benefit recipient’s mailing address on file with the division.

Benefit recipients may voluntarily cancel direct deposit on a temporary basis. They should make sure that the direct deposit authorization is stopped before closing their bank account. If a payment is processed to a closed bank account before the direct deposit is stopped, the funds will be returned to the state and cause a seven-to-10-day delay before a replacement paper warrant is mailed.

Participation in direct deposit may also be involuntarily cancelled if the benefit recipient or the financial institution is disqualified or if the benefit recipient does not receive a benefit payment by direct deposit for six continuous months.

The benefit recipient must process new direct deposit enrollment through FRS Online to reinstate direct deposit after any voluntary or involuntary cancellation has occurred.

#### **STATUTORY REFERENCE:**

Section 17.076, Florida Statutes

#### **FRS RULE REFERENCE:**

Section 69I-22.001-22.003, Florida Administrative Code

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<sup>5</sup> .

### **Payment of Benefits by Retirement Warrant**

All retirement warrants are dated for the last state working day of each month. Each month, retirement paper warrants are delivered to the U.S. Post Office two working days before the last working day of the month.<sup>6</sup> Using postal delivery does not guarantee arrival by the last working day of the month. The division is not responsible for postal delivery delays. Use direct deposit to avoid any inconvenience if there are mail delivery delays or having a retirement warrant lost or stolen. If a benefit recipient has put in a change of address with the U.S. Post Office, the retirement warrant may be returned to the Division of Retirement. Retirement warrants will not be forwarded to the new address.

### **When a Retirement Warrant Is Delayed, Lost, or Stolen**

If a benefit recipient does not receive the retirement warrant by the fifth working day of the following month, the Division of Retirement should be notified. You can call the division toll-free at 844-377-1888 or 850-907-6500. When the division receives this notice, a review of the recipient's account is performed to determine the status of the warrant. If the retirement warrant has not been returned to the division by the U.S. Post Office, a "stop payment" request will be placed on the original warrant and a duplicate warrant will be requested through the Department of Financial Services. This duplicate warrant process takes approximately two business weeks.

The benefit recipient should notify the Division of Retirement immediately if a retirement warrant is stolen, or is received and then lost, so that a "stop payment" can be placed on the warrant. If the warrant has not been cashed, a duplicate warrant will be requested through the Department of Financial Services (which takes approximately two business weeks). If the retirement warrant was cashed, the benefit recipient will be mailed a photocopy of the cashed warrant to review the signature and determine if a forgery has occurred. If applicable, the Division of Retirement will advise the benefit recipient of the procedures for filing a forgery claim (which usually takes six or more months for the bank to process).

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<sup>6</sup> The payments are dated the last working day of each month.

### Change of Address for Benefit Recipient

It is important for all benefit recipients to keep their mailing address updated with the division (including those who receive benefit payments by direct deposit). Benefit recipients may update their address by using their FRS Online account.<sup>7</sup> Benefit recipients may also mail requests to update their address to the division. . If submitting an address change in writing, include the following:

- The benefit recipient's full name,
- The benefit recipient's old address,
- The benefit recipient's new mailing address and new telephone number,
- The benefit recipient's Social Security number (last four digits), and
- The signature of the benefit recipient or legal representative, and
- The current date.

Another method to update an address is by downloading [Form ADDCH-1](#), Mailing Address Change Request Form, from the Forms page of the division's website at [frs.myflorida.com](http://frs.myflorida.com)

The benefit recipient's address change should be mailed to:

**DIVISION OF RETIREMENT**  
**P.O. Box 9000**  
**TALLAHASSEE, FL 32315-9000**

**OR**

**FAXED TO: 850-410-2010**

Address change requests submitted on paper forms or letters must be received by the fifth of the month in order to be effective for that month's retired payroll.

Due to the possibility of identity fraud, an email request for change of address is not accepted by the Division of Retirement.

**NOTE:** The change-of-address process for active employees is different. The division obtains addresses for active employees from participating FRS employers who submit them electronically with monthly payroll reports. Active employees must contact their FRS employer to report a change of address.

#### **STATUTORY REFERENCE:**

Section 121.091, Florida Statutes

#### **FRS RULE REFERENCE:**

Section 60S-4.002(2), Florida Administrative Code

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<sup>7</sup> Benefit recipients living outside the U.S. are not eligible to update their address through FRS Online.

## **II. HEALTH INSURANCE SUBSIDY (HIS)**

The health insurance subsidy (HIS) is a monthly supplemental payment for eligible retired FRS members and certain surviving beneficiaries with health insurance coverage. The subsidy amount is based on the member's total years of creditable service at retirement or DROP entry.

### **HIS Benefit**

Eligible retirees or beneficiaries<sup>8</sup> of the FRS Pension Plan or FRS Investment Plan will receive a monthly HIS benefit, calculated at \$5 per month for each year of creditable service at retirement or DROP participation.<sup>9</sup> Since July 1, 2001, the HIS benefit has been at least \$30, but no more than \$150 per month.

### **Responsibility to Apply for HIS Benefit**

It is the responsibility of the eligible retiree or beneficiary to obtain certification of health insurance coverage and to apply for the health insurance subsidy using the required form.

### **Pension Plan**

#### **Eligibility and Application for HIS**

To qualify to receive monthly HIS payments, an FRS Pension Plan member must:

- Terminate employment with all FRS employers, as described in section 121.021(39), Florida Statutes;
- Satisfy the vesting requirements for a service retirement under the Pension Plan or be eligible for an FRS disability benefit;
- Retire and begin drawing retirement pension benefits;
- Have health insurance coverage (includes Medicare or TRICARE); and
- Apply for the HIS on Form HIS-1, Florida Retirement System Pension Plan Health Insurance Subsidy Certification Form, as required by the division. Eligible benefit recipients will receive Form HIS-1 in a retirement packet mailed around the time of the first monthly benefit payment. (This form is also available on the Forms page of the division's website.)
- Return the completed application including certification of health insurance to the division as soon as possible.

Retroactive HIS payments are available for a very limited period of time. Retroactive HIS payments are limited to the shorter of the period between the effective retirement date and the date the application is received or six months, provided health insurance coverage is certified for the entire period. Retroactive HIS benefit payments cannot exceed six months.

Please contact the Division of Retirement with any questions regarding eligibility or application for HIS as an FRS Pension Plan retiree toll-free at 844-377-1888 or 850-907-6500.

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<sup>8</sup> A beneficiary who qualifies for survivor benefits as described in section 112.363(3)(e), Florida Statutes, and who provides appropriate health insurance coverage certification, is eligible to receive HIS payments.

<sup>9</sup> For members of the FRS Pension Plan, "retirement" means early or normal service retirement or disability retirement as provided in section 121.091, Florida Statutes. For eligible members of the FRS Investment Plan, "retirement" means receiving a distribution from their Investment Plan as provided in section 121.591(1) or (2), Florida Statutes. A distribution consists of a rollover to an eligible plan, a direct payment to the retired member, or a combination of these two methods.

### **Surviving Beneficiary Eligibility for HIS**

If the surviving beneficiary of an HIS-eligible retiree is receiving a continuing benefit, the beneficiary may also be eligible to receive the HIS benefit (see Chapter 11, Part III, for more about survivor benefits). Retirees receiving free insurance from the State of Florida and some benefit recipients receiving an Option 2 benefit are not eligible for the subsidy.

### **Investment Plan**

#### **Eligibility and Application for HIS**

To qualify to receive monthly HIS payments, an FRS Investment Plan member must:

- Terminate employment with all FRS employers<sup>10</sup>, as required in section 121.021(39), Florida Statutes;
- Be retired (receive a distribution of their FRS Investment Plan account directly and/or by rolling funds out of their Investment Plan account to another qualified plan);
- Satisfy the vesting requirements for a service retirement under the Pension Plan or be eligible for an FRS disability benefit;
- Meet the age or service requirements to qualify for normal retirement under the Pension Plan as set forth in section 121.021(29), Florida Statutes, or to retire as a disability retiree under Part II of Chapter 121, Florida Statutes;
- Have health insurance coverage (includes Medicare or TRICARE); and
- Apply for the HIS on [Form HIS-IP](#), Application for Health Insurance Subsidy for Investment Plan Retirees, and [Form HIS-IP-2](#)<sup>11</sup>, Health Insurance Subsidy Certification for Investment Plan Retirees, as required by the division.

Please contact the Division of Retirement with any questions regarding eligibility or application for HIS as an FRS Investment Plan retiree toll-free at 844-377-1888 or 850-907-6500.

#### **HIS Information Available for Pension Plan Payees**

Pension Plan benefit recipients can log in to their secure FRS Online account to verify if they are receiving an HIS benefit payment by reviewing their most recent monthly payment stub. FRS Online can be accessed from the division's website ([frs.fl.gov](https://frs.fl.gov)). To access personal information, the user must log in and provide a username and password. Under Payment Information benefit recipients may review Monthly Payment information to see if they are receiving the Health Insurance Subsidy.

HIS benefit payment confirmation can also be obtained from the Division of Retirement.

#### **STATUTORY REFERENCE:**

Section 112.363, Florida Statutes

#### **FRS RULE REFERENCE:**

Section 60S-4.020, Florida Administrative Code

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<sup>10</sup> Since the member must qualify for normal retirement, three months' termination is not needed in the case of HIS benefits.

<sup>11</sup> These forms are available from the division on request or on the Forms page of the division's website.



### **HIS Tax Exclusion**

The Internal Revenue Service (IRS) allows tax exclusion for certain benefit recipients who receive HIS benefit payments. The excludable portion of the HIS benefit payments must be coverage for health insurance for the retiree, or for the spouse or other dependents of the retiree. Insurance products that qualify for this tax benefit include health, accident, cancer, vision, dental, and disability insurance. Insurance products that do not qualify include life and automobile insurance and coverage for legal services. Insurance products that do not qualify for the HIS tax exclusion should not be included in the employer certification of premiums paid by the retiree directly to the employer.

### **Payees Eligible for Exclusion (Retirees or Beneficiaries)**

The HIS tax exclusion may be used under the following conditions:

- **FRS Payroll Deduction** – Benefit recipients utilizing payroll deduction through the FRS payroll system to pay for health and other qualified insurance premiums will have their gross taxable distribution reduced, up to the amount of the HIS payment that goes toward the cost of such insurance. Any amount of the HIS that exceeds the cost of such insurance will be taxable.
- **Premium Paid to Employer** – Each year, the division requests certification of benefit recipients' total annual health or other qualified insurance premiums made directly to FRS employers. If employers certify those payments to the division in a timely manner, the gross distribution for benefit recipients will be reduced up to the amount of the HIS payment equal to the premium payments for eligible insurance. This will provide the tax exclusion to the largest number of benefit recipients possible, and at the same time allow you to continue providing the service of collecting health insurance premiums from benefit recipients. Insurance products that do not qualify for this tax exclusion should not be included in the employer certification of premiums paid.
- **State Agencies** – Individual state agencies do not need to prepare an employer report because the People First Service Center provides the certification of retired state employees' premiums to the division.

## **Explanation for Retirees**

A brief sidebar from an FRS Retiree Newsletter is reproduced below:

### **Is Your Health Insurance Subsidy Taxable?**

Since 1992, the Division of Retirement has used an Internal Revenue Service ruling that allows Florida Retirement System retirees and surviving beneficiaries who are receiving Health Insurance Subsidy benefits to exclude all or part of their subsidy benefits from their taxable incomes. To qualify, one of the following must apply:

- You had health insurance premiums deducted from your monthly Pension Plan benefit; or
- You paid health insurance premiums to your former FRS employer, who in turn reported the total of your health insurance premium payments to the Division of Retirement.

The tax exclusion is limited to the amount of your subsidy payments for the previous calendar year or the health insurance premiums deducted from your benefit or certified to the Division of Retirement by your former employer, whichever is less. If you had excludable subsidy benefits as described above, the Division of Retirement has already adjusted Box 1, Gross Distribution, of your Form 1099-R.

Although you may qualify to receive Health Insurance Subsidy payments based upon coverage by Medicare, the Internal Revenue Service does not allow your Medicare premium payments to be used for the income tax exclusion.

When a benefit recipient qualifies for the HIS tax exclusion, and the annual health insurance premiums paid were lower than the HIS payments received in that year, only the total premium amount is excluded from federal income tax reporting (excluded from gross income). If the health insurance premiums were greater than the HIS payments received, the total of the benefit recipient's HIS payments are excluded from gross income (income tax free).

Nevertheless, if a benefit recipient's health insurance premiums are paid directly to an insurance company, insurance coverage is provided by a policy that the benefit recipient is not responsible for the premium payment (either FRS deduction or to the employer), or if premiums paid directly to a former employer are not reported to the division, all HIS payments will be reported as taxable income on IRS Form 1099-R.

### **HIS Tax Exclusion Reporting Instructions**

Only data submitted in the formats specified on the following pages will be accepted by the division. The insurance premium payments made by the payee must be the grand total of all qualified insurance premiums paid for the calendar year (monthly payments are not acceptable). Do not provide separate totals for each of the qualified insurance products.

## Due Date

Each year, the division provides IRS Form 1099-R (equivalent to the W-2 Form for active employees) to every benefit recipient receiving an FRS benefit. Due to the time required for the division to produce and mail IRS Form 1099-R, before the end of January each year, the division must receive your certification of a benefit recipient's health insurance premium payments before the close of the calendar year. Therefore, your data should include payments made by the benefit recipient from January 1, 20XX, through a date in December that will allow you sufficient time to produce your file and transmit it to us by the middle of December each year. The due date for the reports is subject to change each year. You will be notified in advance of any changes.

## Format for Employer Report

Provide the total health insurance premium payments made to you (the former employer) for the calendar year, by each payee, in five columns, as follows:

1. FRS Module Code
2. FRS Employer five-digit Agency Number
3. Payee's Social Security Number (no dashes)
4. Total Annual Health Insurance Payments made by each payee for 20XX calendar year (seven digits, no dollar sign, no decimal point)
5. Payee's Name (last name, first name)

Your report must be in social security number order and display the information in columns, as follows:

<u>MODULE CODE</u>	<u>AGENCY #</u>	<u>PAYEE SSN</u>	<u>TOTAL HEALTH PAYMENTS</u>	<u>PAYEE NAME</u>
RP610	03100	000000000	0204089	ABBOTT, JOHN

## HIS Exclusion File Layout

**File name: RP610**

### Detail Record Layout

Item No.	Position From To	Field Size	Data Type	Field Description
1	01 - 05	05	Alpha	Module code. Should contain 'RP610'
2	06 - 06	01	Alpha	Filler space
3	07 - 11	05	Numeric	Reporting agency number
4	12 - 12	01	Alpha	Filler space
5	13 - 21	09	Alpha	Social security number of the benefit recipient
6	22 - 22	01	Alpha	Filler space
7	23 - 29	07	Numeric	Total health insurance amount reported for the payee [5 + 2]
8	30 - 30	01	Alpha	Filler space
9	31 - 55	25	Alpha	Payee name - Last name comma space first name

**Trailer Record Layout**

Item No.	Position From To	Field Size	Data Type	Field Description
1	01 - 05	05	Alpha	Trailer code. Should contain '*****'
2	06 - 06	01	Alpha	Filler space
3	07 - 11	05	Numeric	Reporting agency number
4	12 - 12	01	Alpha	Filler space
5	13 - 16	04	Numeric	Year for which health insurance is reported example (2006)
6	17 - 17	01	Alpha	Filler space
7	18 - 23	06	Numeric	Total number of records in the input file
8	24 - 24	01	Alpha	Filler space
9	25 - 35	11	Numeric	Grand total of health insurance amount reported [9 + 2]

**Note:** All fields on the format are required fields and should be filled. For example, an amount of \$345.00 would be entered in positions 23 thru 29 as 0034500. Do not put a decimal point or dollar sign in the data.

Dump of a sample file for reporting agency 03100:

```
RP610 03100 000000000 0204089 ABBOTT, JOHN
RP610 03100 111111111 0030050 WILLIAMS, JANE
RP610 03100 222222222 0185023 JONES, JOHNNY
RP610 03100 333333333 0025000 WALLS, JANE
RP610 03100 444444444 0025033 SMITH, JOHN
***** 03100 2010 000005 00000469195
```

**Format and Methods for Submitting Certification Reports**

We will accept certification reports submitted using the file format and layout described on Pages 12-11 and 12-11 and the delivery methods described below:

- Online file submission or manual data entry via the division's secure website. Contact the Retired Payroll Section for log in instructions.
- **File Transfer Protocol (FTP) or Secure File Transfer Protocol (SFTP)** – Contact the Retired Payroll Section for the FTP address and instructions.

**If You Need Help**

For information, please contact the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email [contributions@dms.fl.gov](mailto:contributions@dms.fl.gov).

### **III. COST-OF-LIVING ADJUSTMENT (COLA)**

Retirees receive a yearly cost-of-living adjustment (effective in July of each year) that is included in the monthly benefit paid at the end of July. The first COLA increase received after the date of retirement is prorated if the retiree has not been receiving benefits for a full fiscal year.<sup>12</sup> The annual COLA increase described here is not applicable to Investment Plan retirees or the supplemental payments made to eligible Florida National Guard retirees.

Retirees with an effective retirement date before August 1, 2011, or retirements effective after this date when all service credit occurred before July 1, 2011, receive a 3 percent COLA<sup>13</sup> each July. Retirees with an effective retirement date of August 1, 2011, or after, and with service credit earned in July 2011 or after, have an individual COLA that is a reduction from 3 percent. The formula for individual COLA calculations is years of service through June 30, 2011, divided by total service credit at retirement times 3 percent, and is shown in the example below:

$$20.00 \text{ years} \div 30.00 \text{ years} \times 3 \text{ percent} = 2.00 \text{ percent}$$

The retiree in the example above would have an annual COLA of 2.00 percent. If the retiree chose Option 2, 3 or 4 and monthly benefits become payable to the beneficiary, the beneficiary's benefit would also be increased by 2.00 percent each July. The first COLA may be prorated.<sup>12</sup>

#### **STATUTORY REFERENCE:**

Section 121.101, Florida Statutes

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<sup>12</sup> For example, if a member receiving a monthly benefit of \$1,000 has been retired for nine months on July 1, the member's monthly benefit payment amount would be increased by 2.25 percent (nine months = 3/4ths of a year, and 3/4ths of 3 percent = 2.25 percent). Beginning the following July, the benefit would be annually increased by 3 percent. (Note: this example assumes the member has an effective retirement date before August 1, 2011, or a retirement date effective after August 1, 2011, when all service credit occurred before July 1, 2011.)

<sup>13</sup> Beginning the first July 1 after retirement, the benefit is multiplied by a COLA percentage equal to the number of months the member has been receiving a benefit, divided by twelve, and times the annual COLA percentage. If the member elected benefit payment Option 4, at death, the initial benefit is first adjusted in accordance with the provisions of this option, and the COLA amount is based on the adjusted benefit.

## IV. MINIMUM BENEFIT ADJUSTMENT

If a member retires after reaching normal retirement date with at least 10 years of creditable service and receives a retirement benefit that is below a certain level, the benefit may be increased to a threshold amount when the retiree reaches age 65 and one month. The division automatically identifies and notifies eligible retirees (no application is required). The annual minimum benefit cannot be greater than the retiree's average final compensation at retirement and is calculated using only the years of service credit earned before July 1, 1987, multiplied by a dollar value per year of service. See sample calculation in example below. This dollar value changes depending on the retiree's eligibility for Social Security benefits and applicable cost-of-living adjustments. (For dollar value rates not shown, contact the Division of Retirement by calling toll-free at 844-377-1888 or 850-907-6500.) If the calculated minimum benefit is greater than the retiree's current benefit, it will replace the current benefit. The minimum benefit adjustment affects less than 1 percent of retirees.

**Example:**

Current monthly benefit: \$210.23  
Service before July 1, 1987: 18.00 years  
Dollar value per year of service: \$35.28\*  
Option Factor: 1.0000  
Minimum benefit: 18.00 years × \$35.28 × 1.0000 = \$635.04  
Recalculated monthly benefit: \$635.04  
\*Amount effective from 7/1/21 to 6/30/22  
(adjusted annually for a 3 percent cost-of-living increase).

**STATUTORY REFERENCE:**

Section 112.362, Florida Statutes

## **V. INSURANCE COVERAGE AFTER RETIREMENT**

The division has no authority or responsibility for the administration of insurance plans. However, state and local government employers are required by law to offer retiring employees and eligible dependents the option of continuing in any group insurance plans that they participated in before retirement.

For health and hospitalization insurance:

- Retirees must be offered the same coverage as is offered to active employees;
- The premium cost may not exceed the total (employee and employer) premium cost applicable to active employees;
- And the claims experience of the retired group must be commingled with the claims experience of active employees<sup>14</sup>.

Retirees covered under Medicare may be experience-rated separately from retirees not covered under Medicare and separately from active employees, as long as the total premium doesn't exceed that applicable to the active group and coverage is basically the same.

### **STATUTORY REFERENCE:**

Sections 110.123 and 112.0801, Florida Statutes

### **RULE REFERENCE:**

Section 60P-1 and 60P-2, Florida Administrative Code

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<sup>14</sup> For other types of coverage, the claims experience of active employees may be commingled with the claims experience of the retired group.

## **VI. DEDUCTIONS**

### **Insurance Premium Deductions**

Upon request and approval, the division will make payroll deductions from benefit payments for certain types of insurance coverage. Payroll deduction of premium payments is provided as a convenient payment method for benefit recipients and may also afford them a tax advantage<sup>15</sup>.

The division is responsible only for deducting premiums for deductions as authorized by the benefit recipient and submitted by the pre-approved insurance provider or company. The division does not process insurance policies, issue identification cards, or handle insurance benefit claims. Questions about policies, premiums (including refunds), coverage, or claims should be directed to the insurance provider.

The insurance provider is responsible for:

- Submitting payroll deduction information (starts, stops, or changes) to the division using FRS Online for insurance services or other approved secure transmissions. Deduction data must be submitted according to the division's data schedule that allows sufficient time for processing the requests;<sup>16</sup>
- Notifying the benefit recipient of any coverage changes or adjustments to premium deduction amounts; and
- Handling the insurance inquiries from benefit recipients, including questions regarding policy coverage, claims, and premium refunds.

The benefit recipient is responsible for:

- Contacting the insurance provider to cancel insurance coverage or to stop payroll deduction and arrange for an alternate method of payment; and
- Contacting the insurance provider for all insurance inquiries.

FRS employers interested in the insurance payroll deduction service should contact the Division of Retirement by calling toll-free at 844-377-1888 or 850-907-6500.

### **Income Tax Deductions**

Federal law requires pension plan benefit recipients to pay federal income taxes on benefits paid by public funds, unless exempted. In compliance with federal law, the division initially withholds income tax on the monthly benefit payments (periodic payments) of all new retirees as if they were married and claiming three exemptions.<sup>17</sup> These default exemptions will continue to apply until the division receives updated federal tax withholding instructions from benefit recipients.

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<sup>15</sup> See Page 12-9 for information on the Health Insurance Subsidy tax exclusion.

<sup>16</sup> Payroll deduction information must be received by each month's deadline in order for the deduction to be effective that month. The division's date schedule is available after the provider has logged in to the Insurance Services page of FRS Online. Contact the Division of Retirement for additional information.

<sup>17</sup> However, if a benefit recipient's first benefit payment (usually a retroactive payment) is processed on the division's weekly supplemental payroll, taxes are withheld at 10 percent.



### **How to Change Tax Deductions**

Benefit recipients may submit new tax withholding instructions online by logging in to their secure FRS Online account ([frs.fl.gov](https://frs.fl.gov)), then selecting the “Federal Tax Withholding” link. From there, benefit recipients can perform different tax withholding calculation scenarios to determine the tax withholding change they need, then enter their password and submit the request. Online income tax withholding changes can only be submitted three times in a single day and benefit recipients will get a verification message after their change is made indicating the first benefit payment that will reflect this change.

Benefit recipients may also change their tax withholding preference by completing Form W-4P, Withholding Certificate for Pension Payments, and faxing or mailing the form to the division. All new benefit payees are sent Form W-4P in their retirement packet, which is mailed around the time of the first benefit payment. Form W-4P may be downloaded from the Forms page of the division’s website ([frs.myflorida.com](https://frs.myflorida.com)). Payees may also contact the division to have a form sent to them. Upon receipt of the completed form, the amount of taxes to be withheld will be updated on the retirement record, based upon the benefit recipient’s request and applicable IRS tables.

If the benefit recipient chooses to not have taxes withheld from the retirement benefit, or has an insufficient amount of taxes withheld, the IRS could require quarterly filing and pay estimated taxes. If taxes are underpaid, the IRS can impose a penalty based on the amount of the underpayment. The division cannot give tax advice. Benefit recipients are urged to contact a tax professional for questions.

### **Income Tax Exemptions<sup>18</sup>**

Some retirees or surviving beneficiaries may be exempt from paying income taxes on all or a portion of their benefits, as follows:

- When a retiree receives an in-line-of-duty disability benefit, some or all of the benefit is not subject to income taxes. If the in-line-of-duty disability benefit is not greater than the statutory minimum in-line-of-duty disability benefit (42 percent of AFC for most members or 65 percent of AFC for special risk members), the entire benefit will not be taxed. If the benefit is greater than the statutory minimum percentage, the disability portion of the benefit (42 percent or 65 percent of AFC) will not be taxed. The portion of the benefit that is greater than the minimum is subject to income taxes, but not to FICA taxes (Social Security).
- If a surviving beneficiary receives an in-line-of-duty survivor benefit none of the benefit will be subject to income taxes.
- Cost-of-living increases associated with the statutory minimum benefit will not be taxed; however, cost-of-living increases associated with the portion of the benefit that is greater than the statutory minimum benefit are subject to income tax withholding, but not to FICA taxes (Social Security).

**NOTE:** The HIS benefit paid to an in-line-of-duty disability retired member or beneficiary may be taxable.

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<sup>18</sup> In addition to tax exemptions described in this section, income taxes may not be due on all or part of the benefit recipient’s health insurance subsidy (HIS) payment. See Page 12-9 for more on the HIS tax exclusion.

### **Qualified Domestic Relations Orders (QDROs)**

In a Marital Settlement Agreement or Dissolution of Marriage, the FRS member's former spouse (Alternate Payee) may be eligible to receive a portion of the member's FRS benefit. However, before an Alternate Payee can receive any FRS benefit, a Qualified Domestic Relations Order, or QDRO, must be filed with a court and approved by the division (or Alight Solutions for Investment Plan members).

For model instructions on establishing a QDRO and model judicial orders for QDROs under the FRS Pension Plan, visit the division's website ([frs.myflorida.com](https://frs.myflorida.com)). Any questions about QDROs for Pension Plan members should be referred to the division's Legal Section at 850-487-1230.

For model instructions on establishing a QDRO and model judicial orders for QDROs under the FRS Investment Plan, visit the MyFRS website ([MyFRS.com](https://MyFRS.com)). Any questions about QDROs for Investment Plan members should be referred to the FRS Investment Plan Administrator toll-free at 866-446-9377, Option 4.

### **Income Deduction Orders**

The division will make deductions for child support and/or alimony payments pursuant to an income deduction order, in accordance with section 61.1301, Florida Statutes.

#### **STATUTORY REFERENCE:**

Section 61.1301, Florida Statutes

#### **FRS RULE REFERENCE:**

Sections 60S-4.015(5), Florida Administrative Code

## **VII. LEGAL REPRESENTATIVES**

### **Guardianship or Durable Power of Attorney**

A benefit recipient may grant a power of attorney to handle financial affairs to an attorney-in-fact (also known as agent). To add the name of the agent to the benefit recipient's mailing address, a copy of the current power of attorney, agent affidavit, and agent contact information must be submitted to the Division of Retirement. The division does not accept healthcare powers of attorney.

If a benefit recipient is determined by a court to be incapacitated, a legal guardianship must be established. The guardian will need to furnish the Division of Retirement with a copy of the guardianship papers. The division will then notify the guardian of any other documentation needed.

A legal guardian or agent is allowed to make changes to the deductions, mailing address, and direct deposit information for the benefit payee.

## **VIII. IRS FORM 1099-R**

By January 31 of each year, the division provides an IRS Form 1099-R to every payee who received FRS retirement benefits during the preceding calendar year. Form 1099-R shows the benefit recipient's gross distribution, taxable amount, federal income tax withheld, if any, and any after-tax employee contributions paid into the system before retirement, as calculated under the IRS' Simplified Method<sup>19</sup>. Information from the Form 1099-R is filed with the payee's federal income tax return.

Payees may elect to receive electronic notice when their Form 1099-R is ready to view, print, and/or download by updating their "Communication Preferences" on their FRS Online account. Benefit recipients must select electronic notification no later than December 31 to receive email notification when the Form 1099-R is available from their FRS Online account. This email notification is generally sent by the second week of January.

Payees that do not select "Email" by December 31 will receive their Form 1099-R by mail. Paper copies are mailed by the end of January to the address that was on file with the division on December 31.

A copy of the Form 1099-R is available from the FRS Online account regardless of the communications preference setting. If a benefit payee has not received the current year's Form 1099-R, they can contact the division to request a duplicate form by mail or fax. Form 1099-R cannot be emailed to the benefit recipient due to the secure information listed on the form. Historical copies of previous seven years' Form 1099-R are also available using FRS Online.

### **Simplified Method**

A portion of the retirement benefit may be based on funding for which taxes were previously paid. Under the IRS's Simplified Method, this portion may be tax exempt. For information on the Simplified Method, refer to IRS Publication 575, Pension and Annuity Income, available from the Internal Revenue Service at [irs.gov](https://www.irs.gov).

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<sup>19</sup> The Simplified Method was formerly known as the Simplified General Rule.

## **IX. INSTITUTE OF FOOD AND AGRICULTURAL SCIENCES (IFAS) SUPPLEMENTAL RETIREMENT PROGRAM**

The 1984 Legislature enacted the Supplemental Retirement Act for the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida in order to supplement the monthly retirement benefit being paid under the Federal Civil Service Retirement System to certain retirees of the Institute. The supplement is paid to retirees who were IFAS cooperative extension employees employed before July 1, 1983, and who were not entitled to benefits from either a state-supported retirement system or Social Security based on their service with IFAS. This supplement was intended to compensate these IFAS employees for the difference between their Civil Service retirement benefit and the benefits that a similar FRS member would receive, including a Social Security benefit. All employees eligible for this supplement have been notified. No additional persons can become eligible for this supplement. The IFAS program, which became effective July 1, 1985, allows eligible IFAS employees who had terminated as early as January 1, 1985, to receive a benefit. (See Chapter 1, Part V, for IFAS enrollment information.) In 2007, IFAS was consolidated under the Regular Class of the FRS as a closed group.

## **X. FORFEITURE OF BENEFITS**

A public officer or employee who is found guilty of a specified crime committed before retirement, or whose employment was terminated because of an admission to committing, aiding, or abetting a specified crime before retirement, must forfeit all retirement rights and benefits, except for the right to receive a refund of any contributions on deposit that were personally made by the member. The felony offense must be job-related. Benefits for a member who commits, or aids or abets the commission of, a felony offense that is not job-related will not be subject to the forfeiture provisions.

### **Offenses for which Forfeiture is Required**

Any member of the consolidated Florida Retirement System, the FRS Pension Plan (including any DROP participant), the FRS Investment Plan, SMSOAP, SUSORP, or SCCSORP, or TRS or SCOERS, who is found guilty by verdict of a jury or court or is convicted of a “specified offense” committed before retirement, or who has entered a plea of nolo contendere to such crime, or whose office or employment is terminated due to admission of such an offense, must forfeit all retirement rights and benefits under the FRS plan or program, except the return of the accumulated employee contributions as of the date of termination. Under the law, the term “specified offense” includes:

- Committing, aiding or abetting an embezzlement of public funds or any grand theft from the employer;
- Bribery in connection with employment as a public officer or employee;
- Any other felony specified in Chapter 838, Florida Statutes (except sections 838.15 and 838.16, Florida Statutes);
- Committing any felony willfully and with intent to defraud the public or the public employer of the right to receive the faithful performance of duty, or receiving or attempting to receive profit, gain, or advantage for himself/herself or another person through the use of the position held; or
- Committing an impeachable offense by an officer; or
- Committing of certain felony offenses against a minor through the use or attempted use of rights, privileges, duties, or position of public employment or office.

In addition, a public officer or employee in the consolidated Florida Retirement System who is found by a court of competent jurisdiction to have violated any state law against strikes by public employees must also forfeit benefit rights under Chapter 121, Florida Statutes, except for the return of accumulated employee contributions as of the date of conviction.

### **Forfeiture Provisions for Other Public Retirement Plans**

Members of other public retirement plans in Florida, any other publicly supported retirement system or plan as defined in section 112.625, Florida Statutes, are subject only to the forfeiture provisions under Chapter 112, Florida Statutes. Although these forfeiture provisions are essentially the same as those listed above, if you are concerned about possible forfeiture of benefits for other plans, section 112.3173, Florida Statutes, should be reviewed carefully.

#### **STATUTORY REFERENCE:**

Sections 121.031, 121.051(2)(c), 121.091(5)(f)-(j) and (13)(j), 112.3173, and 112.625, and Chapter 838, Florida Statutes

#### **FRS RULE REFERENCE:**

Section 60S-4.021, Florida Administrative Code

### **NOTIFICATION REQUIRED**

The employer of any member of any FRS plan or program whose term of office or employment is terminated for commission of an offense as described on Page 12-21 must notify the Commission on Ethics and should notify the division. The notice should include a copy of the charges, written investigation, admission of guilt (if given), and termination letter.

The Secretary of the Senate must notify the Commission on Ethics and may notify the division of any proceedings of impeachment being conducted by the Senate. If the trial results in a conviction, the results of the trial must be furnished to the Commission on Ethics and may be furnished to the division.

The clerk of court must notify the Commission on Ethics and may notify the division of any proceedings involving the crimes described on Page 12-21. The notice should include a copy of the indictment, information, or other document containing the charges. In addition, if a guilty verdict is reached, or if the public officer or employee enters a plea of guilty or nolo contendere in the court, the clerk must furnish a copy of the verdict or plea to the Commission on Ethics and may furnish a copy to the division.

The Commission on Ethics will notify the division of any Pension Plan members so reported.

### **Review and Appeal**

Upon receipt of proper documentation, the division will conduct an independent review and may request that additional supporting documents be provided. Under circumstances described in the following section, benefits will be suspended subject to a hearing held by a hearing officer of the Division of Administrative Hearings. Appeals may be made to the District Court of Appeal. The State Board of Administration will conduct an independent review in accordance with procedures established by the State Board for any participants of the FRS Investment Plan reported by the Commission on Ethics.

You may call the Commission on Ethics at 850-488-7864 or send a FAX to 850-488-3077.

The commission's mailing address is shown below:

**THE FLORIDA COMMISSION ON ETHICS  
PO DRAWER 15709  
TALLAHASSEE, FL 32317-5709**

### **Pending Charges**

An actively employed public officer or employee, including any DROP participant, who has had an information or indictment filed in a circuit court charging the officer or employee with a crime that may result in forfeiture will not begin receiving retirement benefits until all criminal charges have been determined by the court and a subsequent determination is made by the State Retirement Director concerning forfeiture of benefits. If the officer or employee has employee contributions on deposit, upon approval by the State Retirement Director, the officer or employee may receive monthly retirement benefits equal to the total employee contributions on deposit. After employee contributions are exhausted, benefits must be suspended while criminal charges are pending in circuit court.

When a retired public officer or employee has an information or indictment filed in a circuit court charging the officer or employee with a crime committed prior to retirement that may result in forfeiture, retirement benefits will be suspended until all criminal charges have been determined by a circuit court and a subsequent determination has been made by the State Retirement Director concerning forfeiture of benefits. If the retired public officer or employee has employee contributions on deposit, upon approval by the State Retirement Director, monthly retirement benefits may be paid equal to the employee contributions remaining on deposit. After the employee contributions are exhausted, the benefits will be suspended while criminal charges are pending in circuit court.

### **Restoration of Benefit Rights**

If an active member is convicted of a felony that requires the forfeiture of benefits and subsequently receives a full pardon, the member is entitled to receive benefits as though the offense had never been committed, upon submission of a proper retirement application.<sup>20</sup> If a retired member is convicted of a felony committed before retirement that requires the forfeiture of benefits, and a full pardon<sup>21</sup> is subsequently received, the retiree will receive all benefits due, retroactive to the date of retirement or suspension.

### **Beneficiary who Kills Member**

Any FRS beneficiary who is found guilty by verdict of a jury or by the court trying the case without a jury, or enters a plea of guilty or nolo contendere to, the crime of unlawfully and intentionally killing or procuring the death of a member forfeits all rights to the deceased member's benefits, and the benefits will be paid as if the beneficiary predeceased the decedent. Benefits may not be paid by the division pending final resolution of the charges against the beneficiary.

If you have questions regarding the forfeiture of FRS benefits under the FRS Pension Plan, call the Division of Retirement toll-free at 877-377-1266 or 850-907-6540. If you have questions regarding the forfeiture of FRS benefits under the FRS Investment Plan, call the Investment Plan Administrator toll-free at 866-446-9377, Option 4.

### **STATUTORY REFERENCE:**

Section 121.091(5)(f)-(j) and (13)(j), Florida Statutes

### **FRS RULE REFERENCE:**

Section 60S-4.021, Florida Administrative Code

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<sup>20</sup> The restoration of civil rights or sealing of criminal records does not automatically entitle the affected member to receive retirement benefits.

<sup>21</sup> Note that a commuted sentence is not a full pardon and does not entitle the convicted member to receive retirement benefits.



## XI. ANNUITIES FOR CITIES, COUNTIES, SCHOOL BOARDS AND COMMUNITY COLLEGES

Sections 121.182, 1012.685, and 1012.87, Florida Statutes, allow cities<sup>22</sup>, counties, district school boards, and community college boards of trustees to provide annuities for their employees who meet specified criteria<sup>23</sup> to offset part or all of a potential reduction in retirement income. These annuities may be purchased for early retirement (when a member retires before qualifying for normal retirement) or as credit for out-of-state service, or administered by the local government.

If the employer is administering the plan, the plan document must be approved by the Local Retirement Section of the Bureau of Local Retirement Systems before the plan is implemented to insure compliance under Part VII, Chapter 112, Florida Statutes. The division does not administer these annuities, nor are they subject to laws governing the FRS.

However, in purchasing or administering such annuities, cities, counties, district school boards, and community college district boards of trustees must comply with the provisions and reporting requirements of Chapter 112, Part VII, Florida Statutes, the provisions of Article X, section 14, of the Florida Constitution (i.e., the annuities must be funded on a sound actuarial basis), and any applicable federal laws.

### STATUTORY REFERENCE:

Sections 121.182, 1012.685, and 1012.87, Florida Statutes

## XII. QUALIFIED INCOME TRUSTS

A qualified income trust (formerly called a “Miller Trust”) may be used when a patient needs government assistance to pay for long-term nursing care, and when that patient’s monthly income both falls short of paying for the nursing home’s monthly bill and is above the Medicaid cutoff to qualify for assistance. Payees whose total monthly income (including retirement benefits) exceeds the Medicaid income standard may still qualify for Medicaid institutional care benefits if they establish a qualified income trust under federal law [see 42 U.S.C. 1396p(d)(4)(B)]. A qualified income trust must be irrevocable, must consist of income only, and must designate that the State of Florida will receive any funds remaining in the trust at the time of the person’s death, up to the amount of Medicaid payments made during the life of the individual. For further information on qualified income trusts or Medicaid, contact the local Economic Self Sufficiency Program Office of the Department of Children and Family Services at 1-866-762-2237 and ask for the Medicaid Program Policy Unit. For online information on how to reach the local offices, go to: [dcf.state.fl.us/ess/route1.shtml](http://dcf.state.fl.us/ess/route1.shtml).

The division is not responsible for establishing these trusts, but will honor requests to make retirement benefit payments directly to such trusts on behalf of benefit recipients of the FRS Pension Plan.

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<sup>22</sup> Beginning October 1, 2005, municipalities participating in the FRS are allowed to buy annuities for their personnel in the same manner as is allowed for counties (see footnote 23).

<sup>23</sup> Cities, counties and district school boards may buy annuities for their personnel with 25 or more years of creditable service who are age 50 or older and have applied for retirement under the FRS Pension Plan and may buy annuities to purchase credit for up to five years of certain out-of-state service. District school boards may also buy annuities for members of the Teachers’ Retirement System (TRS), but TRS members must have 25 or more years of creditable service, must be age 55 or older, and must have applied for retirement under TRS Plan E. Community college boards of trustees may buy annuities for their personnel with 25 or more years of creditable service who are age 55 or older and have applied for retirement under the FRS Pension Plan and can buy annuities to purchase credit for up to five years of out-of-state teaching service.